## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA EASTERN DIVISION

TAMIKA CASON,	)
Plaintiff,	)
v.	) CASE NO. 3:21-CV-265-KFF
KILOLO KIJAKAZI,	)
Acting Commissioner of Social Security,	)
Defendant.	<i>)</i> )

## MEMORANDUM OPINION AND ORDER

The Commissioner has filed an Unopposed Motion to Remand for Further Administrative Proceedings Pursuant to Sentence Four of 42 U.S.C. § 405(g). Doc. 18. Sentence four of 42 U.S.C. § 405(g) authorizes the district court to "enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing." 42 U.S.C. § 405(g). A district court may remand a case to the Commissioner for a rehearing if the court finds "the decision is not supported by substantial evidence [or the Commissioner or ALJ] incorrectly applied the law relevant to the disability claim." *Jackson v. Chater*, 99 F.3d 1086, 1092 (11th Cir. 1996). The parties in this case consented to entry of final judgment by the United States Magistrate Judge under 28 U.S.C. § 636(c).

Upon consideration of Defendant's motion, the Court finds reversal and remand necessary. The Commissioner concedes that remand is necessary so the ALJ can obtain

supplemental evidence from a vocational expert to clarify the effect of the assessed

limitations on the claimant's occupational base. The hypothetical questions to the

vocational expert should reflect Plaintiff's specific capacity and limitations established by

the record as a whole. The ALJ should ask the vocational expert to identify examples of

appropriate jobs and to state the incidence of such jobs in the national economy. Further,

before relying on the vocational expert evidence, the ALJ should identify and resolve any

conflicts between the occupational evidence provided by the vocational expert and

information in the Dictionary of Occupational Titles and its companion publication, the

Selected *Characteristics of Occupations*. Doc. 18 at 2.

Accordingly, it is ORDERED that the Commissioner's motion is GRANTED and

that the decision of the Commissioner is REVERSED and REMANDED for further

proceedings under 42 U.S.C. § 405(g) consistent with the Commissioner's motion.

It is further ORDERED, in accordance with Bergen v. Comm'r of Soc. Sec., 454

F.3d 1273, 1278 n.2 (11th Cir. 2006), that Plaintiff has 90 days after receipt of notice of

an award of past due benefits to seek attorney's fees under 42 U.S.C. § 406(b). See also

Blitch v. Astrue, 261 F. App'x 241, 242 n.1 (11th Cir. 2008).

A separate judgment will issue.

DONE this 24th day of February, 2022.

/s/ Kelly Fitzgerald Pate

KELLY FITZGERALD PATE

UNITED STATES MAGISTRATE JUDGE